

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:01-00011-07

M. DERRICK SPRY

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER  
MEMORANDUM OPINION AND ORDER

On July 31, 2008, the United States of America appeared by Joshua C. Hanks, Assistant United States Attorney, and the defendant, M. Derrick Spry, appeared in person and by his counsel, Christian M. Capece, Assistant Federal Public Defender, for a hearing on the petition on supervised release and amendment thereto, submitted by United States Probation Officer Douglas W. Smith, the defendant having commenced a fifty-nine month term of supervised release in this action on April 21, 2008, as more fully set forth in the Supervised Release Revocation and Judgment order entered by the court on April 17, 2008.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant used controlled substances as evidenced by a positive urine screen on May 7, 2008, for marijuana and benzodiazepines; on May 13, 2008, for benzodiazepines; on June 6, 2008, for oxycodone; and on July 1, 2008, for marijuana; and (2) that the defendant failed to abide by the special condition that he participate in the drug counseling and treatment program at Transitions, Inc. for a period of six months which he began on April 21, 2008, inasmuch as he was dismissed from the program on June 16, 2008, due to repeated violations of the rules; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously


imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TEN (10) MONTHS, to be followed by a term of forty-nine (49) months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he make himself available for such drug abuse counseling and treatment as arranged by the probation officer which shall commence as soon as the defendant is released.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: August 18, 2008

  
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John T. Copenhaver, Jr.  
United States District Judge